

AMENDED IN ASSEMBLY JANUARY 4, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1126

Introduced by Assembly Member Charles Calderon

February 18, 2011

An act to amend ~~Section 7053~~ *Sections 7261 and 7262* of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1126, as amended, Charles Calderon. ~~Sales and use taxes. Transaction and use tax: rate.~~

The Transaction and Use Tax Law authorizes a district to impose a transactions tax for the privilege of selling tangible personal property at retail upon every retailer in the district at a rate of $\frac{1}{4}$ of 1%, or a multiple thereof, of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the district. That law also requires that a use tax portion of a transaction and use tax ordinance be adopted to impose a complementary tax upon the storage, use, or other consumption in the district of tangible personal property purchased from any retailer for storage, use, or other consumption in the district at a rate of $\frac{1}{4}$ of 1%, or a multiple thereof, of the sales price of the property whose storage, use, or other consumption is subject to the tax, as prescribed.

This bill would decrease those rates to $\frac{1}{8}$ of 1%.

~~The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. The State Board of Equalization~~

~~administers the collection of taxes as imposed under those laws. Existing law requires every seller, certain retailers, and every person storing, using, or otherwise consuming in this state tangible personal property purchased from a retailer to keep any records, receipts, invoices, and other pertinent papers in any form as the board may require.~~

~~This bill would make various technical, nonsubstantive changes to this requirement.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 7261 of the Revenue and Taxation Code*
2 *is amended to read:*

3 7261. The transactions tax portion of any transactions and use
4 taxes ordinance adopted under this part shall be imposed for the
5 privilege of selling tangible personal property at retail, and shall
6 include provisions in substance as follows:

7 (a) A provision imposing a tax for the privilege of selling
8 tangible personal property at retail upon every retailer in the district
9 at a rate of ~~one-quarter~~ *one-eighth* of 1 percent, or a multiple
10 thereof, of the gross receipts of the retailer from the sale of all
11 tangible personal property sold by that person at retail in the
12 district.

13 (b) Provisions identical to those contained in Part 1
14 (commencing with Section 6001), insofar as they relate to sales
15 taxes and are not inconsistent with this part, except that the name
16 of the district as the taxing agency shall be substituted for that of
17 the state and that an additional transactor's permit shall not be
18 required if a seller's permit has been or is issued to the transactor
19 under Section 6067.

20 (c) A provision that all amendments subsequent to the effective
21 date of this part to Part 1 (commencing with Section 6001) relating
22 to sales tax and not inconsistent with this part shall automatically
23 become a part of the transactions and use taxes ordinance.
24 However, no amendment shall operate so as to affect the rate of
25 tax imposed by the district's board.

26 (d) A provision that the amount subject to tax shall not include
27 the amount of sales tax or use tax imposed by the State of
28 California or by any city, city and county, or county pursuant to

1 the Bradley-Burns Uniform Local Sales and Use Tax Law, or the
2 amount of any state-administered transactions or use tax.

3 (e) A provision that there are exempted from the tax the gross
4 receipts from the sale of tangible personal property, other than fuel
5 or petroleum products, to operators of aircraft to be used or
6 consumed principally outside the county in which the sale is made
7 and directly and exclusively in the use of the aircraft as common
8 carriers of persons or property under the authority of the laws of
9 this state, the United States, or any foreign government.

10 (f) A provision that sales of property to be used outside the
11 district which are shipped to a point outside the district, pursuant
12 to the contract of sale, by delivery to that point by the retailer or
13 his or her agent, or by delivery by the retailer to a carrier for
14 shipment to a consignee at such point, are exempt from the tax.

15 For purposes of this section, “delivery” of vehicles subject to
16 registration pursuant to Chapter 1 (commencing with Section 4000)
17 of Division 3 of the Vehicle Code, aircraft licensed in compliance
18 with Section 21411 of the Public Utilities Code, and undocumented
19 vessels registered under Division 3.5 (commencing with Section
20 9840) of the Vehicle Code shall be satisfied by registration to an
21 out-of-district address and by a declaration under penalty of
22 perjury, signed by the buyer, stating that the address is, in fact, his
23 or her principal place of residence.

24 “Delivery” of commercial vehicles shall be satisfied by
25 registration to a place of business out of district and a declaration
26 under penalty of perjury, signed by the buyer, that the vehicle will
27 be operated from that address.

28 (g) A provision that the sale of tangible personal property is
29 exempt from tax if the seller is obligated to furnish the property
30 for a fixed price pursuant to a contract entered into prior to the
31 operative date of the ordinance. A lease of tangible personal
32 property which is a continuing sale of that property is exempt from
33 tax for any period of time for which the lessor is obligated to lease
34 the property for an amount fixed by the lease prior to the operative
35 date of the ordinance. For the purposes of this subdivision, the sale
36 or lease of tangible personal property shall be deemed not to be
37 obligated pursuant to a contract or lease for any period of time for
38 which any party to the contract or lease has the unconditional right
39 to terminate the contract or lease upon notice, whether or not that
40 right is exercised.

1 SEC. 2. *Section 7262 of the Revenue and Taxation Code is*
2 *amended to read:*

3 7262. The use tax portion of any transactions and use tax
4 ordinance adopted under this part shall impose a complementary
5 tax upon the storage, use, or other consumption in the district of
6 tangible personal property purchased from any retailer for storage,
7 use, or other consumption in the district. The tax shall be at a rate
8 of ~~one-quarter~~ *one-eighth* of 1 percent, or a multiple thereof, of
9 the sales price of the property whose storage, use, or other
10 consumption is subject to the tax, and the ordinance shall include
11 provisions in substance as follows:

12 (a) Provisions identical to those contained in Part 1
13 (commencing with Section 6001), insofar as they relate to use
14 taxes and are not inconsistent with this part, except that the name
15 of the district as the taxing agency shall be substituted for that of
16 the state. The name of the district shall be substituted for the word
17 “state” in the phrase “retailer engaged in business in this state” in
18 Section 6203 and in the definition of that phrase.

19 The following additional provisions shall be included:

20 (1) Except as provided in paragraph (2), a retailer engaged in
21 business in the district shall not be required to collect use tax from
22 the purchaser of tangible personal property, unless the retailer
23 ships or delivers the property into the district or participates within
24 the district in making the sale of the property, including, but not
25 limited to, soliciting or receiving the order, either directly or
26 indirectly, at a place of business of the retailer in the district or
27 through any representative, agent, canvasser, solicitor, subsidiary,
28 or person in the district under the authority of the retailer.

29 (2) “A retailer engaged in business in the district” shall also
30 include any retailer of any of the following: vehicles subject to
31 registration pursuant to Chapter 1 (commencing with Section 4000)
32 of Division 3 of the Vehicle Code, aircraft licensed in compliance
33 with Section 21411 of the Public Utilities Code, or undocumented
34 vessels registered under Division 3.5 (commencing with Section
35 9840) of the Vehicle Code. That retailer shall be required to collect
36 use tax from any purchaser who registers or licenses the vehicle,
37 vessel, or aircraft at an address in the district.

38 (b) A provision that all amendments to the provisions of Part 1
39 (commencing with Section 6001) relating to the use tax and not
40 inconsistent with this part shall automatically become a part of the

1 ordinance. However, no amendment shall operate so as to affect
2 the rate of tax imposed by the district's board.

3 (c) A provision that the amount subject to tax shall not include
4 the amount of any sales tax or use tax imposed by the State of
5 California or by any city, city and county, or county pursuant to
6 the Bradley-Burns Uniform Local Sales and Use Tax Law (Part
7 1.5 (commencing with Section 7200)) or the amount of any
8 state-administered transactions or use tax.

9 (d) A provision that any person subject to a use tax under an
10 ordinance adopted pursuant to this part shall be entitled to credit
11 against that tax or any transactions tax, or to reimbursement for a
12 transactions tax, paid to a district or retailer in a district imposing
13 a transactions and use tax pursuant to this part.

14 (e) A provision that, in addition to the exemptions provided in
15 Sections 6366 and 6366.1, the storage, use, or other consumption
16 of tangible personal property, other than fuel or petroleum products,
17 purchased by operators of aircraft, and used or consumed by the
18 operators directly and exclusively in the use of the aircraft as
19 common carriers of persons or property for hire or compensation
20 under a certificate of public convenience and necessity issued
21 pursuant to the laws of this state, the United States, or any foreign
22 government, is exempt from the use tax.

23 (f) A provision that the storage, use, or other consumption in
24 the district of tangible personal property is exempt from the tax if
25 the purchaser is obligated to purchase the property for a fixed price
26 pursuant to a contract entered into prior to the operative date of
27 the ordinance. The possession of, or the exercise of any right or
28 power over, tangible personal property under a lease which is a
29 continuing purchase of the property is exempt from tax for any
30 period of time for which the lessee is obligated to lease the property
31 for an amount fixed by a lease entered into prior to the operative
32 date of the ordinance. For purposes of this subdivision, the storage,
33 use, or other consumption of, or possession of, or exercise of any
34 right or power over, tangible personal property shall be deemed
35 not to be obligated pursuant to a contract or lease for any period
36 of time for which any party to the contract or lease has the
37 unconditional right to terminate the contract or lease upon notice,
38 whether or not the right is exercised.

39 ~~SECTION 1. Section 7053 of the Revenue and Taxation Code~~
40 ~~is amended to read:~~

1 ~~7053. Every seller, every retailer as defined in subdivision (b)~~
2 ~~of Section 6015, and every person storing, using, or otherwise~~
3 ~~consuming in this state tangible personal property purchased from~~
4 ~~a retailer shall keep records, receipts, invoices, and other pertinent~~
5 ~~papers in any form as the board may require.~~

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